

YADKIN COUNTY BOARD OF COMMISSIONERS
REGULAR MINUTES
Monday, July 20, 2009

The Yadkin County Board of Commissioners met in Regular Session on Monday, July 20, 2009 in the Yadkin County Human Services Building (Commissioners' Meeting Room), 217 East Willow Street, Yadkinville, NC.

Present were:

Chairman Chad Wagoner
Vice Chairman Kevin Austin
Commissioner David Moxley
Commissioner Tommy Garner (arrived at 7:03pm)
Commissioner Brady Wooten (arrived at 7:04pm)

Staff present: County Attorney, James Graham; County Manager, Stan Kiser; and Clerk to the Board, Gina Brown.

CALL TO ORDER by Chairman Wagoner at 7:00pm.

INVOCATION led by James Graham.

Chairman Wagoner acknowledged the passing of Mark Garner. Mr. Garner, of Elkin, was killed in action in Iraq. Chairman Wagoner asked that the family be remembered.

PLEDGE OF ALLEGIANCE led by Chairman Wagoner.

ADJUSTMENTS TO/ADOPTION OF THE AGENDA

Vice Chairman Austin requested a closed session to consult with attorney. Clerk Brown reported that Christopher Ong, rather than Melanie Yates, would be leading the presentation of the rezoning requests.

Commissioner Garner made a motion to approve the agenda with noted adjustments. Commissioner Moxley second.

Vote: 5/0

PUBLIC COMMENTS

Public Comments portion of the meeting opened at 7:06pm.

Diane Doub of East Bend appeared before the Board to discuss a recent situation with a neglected horse. Ms. Doub stated that she received information concerning a horse in the Hamptonville area that was in poor condition and not being properly cared for. Ms. Doub volunteered her assistance. Calls were subsequently made to the Sheriff's Office, Animal Control, and Winston Salem Rescue. A staff Deputy of the Sheriff's Office visited the property and found that the horse was over 20 years old and vet records were available. As this deputy was not trained to identify abuse or neglect, no action was taken. On July 2, the Horse Protection Society visited the property and ultimately the horse was rescued. Ms. Doub stated that she tried to get help for this animal for 8 weeks. Ms. Doub does not intend to lay blame, but stated that a trained Animal Control Officer is needed in Yadkin County. Ms. Doub suggested that there be a special Deputy of the Sheriff's Office that is trained in identifying abuse and neglect of animals.

Commissioner Garner reported that he had also made some phone calls regarding this animal.

Jimmy Steelman of Hamptonville appeared before the Board to discuss clean-up after roadway accidents. Mr. Steelman asked the Board to put pressure on the fire departments to clean broken glass and debris from the roads after an accident.

Commissioner Garner reported that Highway Patrol officers generally carry brooms in their trunk for clean-up. Chairman Wagoner added that fire department personnel typically clean the debris with fire hoses.

Public Comments portion of the meeting closed at 7:14pm.

APPROVAL OF MINUTES

There were no adjustments.

Commissioner Wooten made a motion to approve the June 17, 2009 Budget Meeting Minutes and the June 22, 2009 Budget Meeting Minutes as presented. Commissioner Moxley second.

Vote: 5/0

PUBLIC HEARING

(1) Charlie Walker, Director of YVEDDI Transportation appeared before the Board to present information regarding the Rural Operating Assistance Program. Mr. Walker explained that the State annually appropriates funds to the County for rural transportation needs. The County designates an agency to administer the funds. Yadkin County has received \$163,000 for 2009-2010 and no match is required. Funds are designated in these categories:

1. Elderly and Disabled Transportation Assistance – transportation for the elderly and disabled to medical appointments
2. Employment Transportation Assistance – transportation for employment-related issues, particularly for DSS TANF clients
3. Rural General Public Transportation – allows the transportation entity to offer lower rates to the general public for transportation.

A written project has been completed and must be forwarded to NCDOT with the endorsement of the County.

The Public Hearing for the Administration of Rural Operating Assistance Program Funds was opened at 7:20pm. There were no speakers on this issue. The Public Hearing closed at 7:20pm.

Commissioner Wooten asked if the allocation was final or still subject to State cuts. Mr. Walker replied that State and Federal funds have been confirmed. Chairman Wagoner asked if the resolution had the same wording as resolutions of past years. Mr. Walker stated that only the amounts had been changed.

Commissioner Wooten made a motion to approve the RESOLUTION DESIGNATING YADKIN VALLEY ECONOMIC DEVELOPMENT DISTRICT AS THE ADMINISTRATORS OF THE RURAL OPERATING ASSISTANCE PROGRAM FOR RURAL TRANSPORTATION. Vice

Chairman Austin second. Vice Chairman Austin asked how the figures for each category are determined. Mr. Walker explained that the State establishes the amount for each category and those funds are managed in separate line items. Mr. Walker reported that unused Employment and Training Funds can be moved to the Elderly and Disabled line item if needed. Vice Chairman Austin asked about the referral process for the Employment and Training Funds. Mr. Walker replied that these referrals are strictly from DSS.

Vote: 5/0

(2) Christopher Ong, Director of Planning and Development appeared before the Board to present information regarding a rezoning petition. Gilbert Hemric is requesting the rezoning of 23.25 acres from RA to HB. The property is primarily agriculture. The requested rezoning is consistent with surrounding properties. The Planning Board voted 4/1 to recommend this rezoning request.

The Public Hearing on this rezoning petition was opened at 7:27pm. There were no speakers on this issue. The Public Hearing closed at 7:27pm.

Commissioner Garner made a motion to approve the rezoning of 23.25 acres on Hemric Mountain Road belonging to Gilbert Hemric from RA to HB.

Vice Chairman Austin second.

Attorney Graham reminded the Board that the Statement of Zoning Consistency should be approved prior the approval of the rezoning.

Commissioner Garner withdrew his motion. Vice Chairman Austin withdrew his second.

Chairman Wagoner read the Statement of Zoning Consistency.

July 20, 2009

STATEMENT OF ZONING CONSISTENCY PURSUANT TO N.C.G.S 153A-341

RE: Proposed rezoning of approximately 23.25 acres, being all of Parcel # 486800538976, off of Hemric Mountain Road, in the West Yadkin area, from Rural Agricultural (RA) to Highway Business (HB) district.

As we, the Yadkin County Board of Commissioners, have found this property to be located near existing commercially-zoned properties with established commercial uses, and significantly contiguous with the Right-of-Way of (southbound) Interstate-77, a well-traveled arterial road; and have further found that:

We find the above referenced proposal for rezoning to be consistent in character with the intent of the Highway Business District as provided in Article 7, Section 4 of the Yadkin County Zoning Ordinance.

We further find the above referenced proposal for rezoning to be consistent with the guidelines for highway-oriented commercial uses in Section 5.7.5., Subsection 5, of the Yadkin County Land Use Plan.

We therefore consider the proposed rezoning to be reasonable and in the public interest.

Commissioner Moxley made a motion to approve the Statement of Zoning Consistency for 23.25 acres on Hemric Mountain Road belonging to Gilbert Hemric. Commissioner Garner second. Vice Chairman Austin questioned the statement in the zoning ordinance requiring water and sewer availability. Mr. Ong explained that the provision only applies when water and sewer are available in the area. Commissioner Wooten asked why there was a lone 'no' vote by the Planning Board. Mr. Ong replied that the 'no' vote was regarding specific use.

Vote: 5/0

Commissioner Wooten made a motion to approve the rezoning of 23.25 acres belonging to Gilbert Hemric from RA to HB. Commissioner Moxley second.
Vote: 5/0

(3) Mr. Ong presented the rezoning petition of Gilbert Hemric requesting the rezoning of 6.42 acres from RA to HB. The Planning Board voted 4/1 to recommend this rezoning.

The Public Hearing on this rezoning petition was opened at 7:35pm. There were no speakers on this issue. The Public Hearing closed at 7:35pm.

Chairman Wagoner read the Statement of Zoning Consistency.

July 20, 2009

STATEMENT OF ZONING CONSISTENCY PURSUANT TO N.C.G.S 153A-341

RE: Proposed rezoning of approximately 6.42 acres, being all of Parcel # 486800555978, off of Hemric Mountain Road, in the Arlington area, from Rural Agricultural (RA) to Highway Business (HB) district.

As we, the Yadkin County Board of Commissioners, have found this property to be located near existing commercially-zoned properties with established commercial uses, and significantly contiguous with the Right-of-Way of (southbound) Interstate-77, a well-traveled arterial road; and have further found that:

We find the above referenced proposal for rezoning to be consistent in character with the intent of the Highway Business District as provided in Article 7, Section 4 of the Yadkin County Zoning Ordinance.

We further find the above referenced proposal for rezoning to be consistent with the guidelines for highway-oriented commercial uses in Section 5.7.5., Subsection 5, of the Yadkin County Land Use Plan.

We therefore consider the proposed rezoning to be reasonable and in the public interest.

Vice Chairman Austin made a motion to approve the Statement of Zoning Consistency for 6.42 acres on Hemric Mountain Road belonging to Gilbert Hemric. Commissioner Garner second.

Vote: 5/0

Commissioner Wooten made a motion to approve the rezoning of 6.42 acres of Gilbert Hemric from RA to HB. Commissioner Garner second.

Vote: 5/0

(4) Mr. Ong presented the rezoning petition of Gilbert Hemric requesting the rezoning of 11.01 acres from RA to HB. The Planning Board voted 4/1 to recommend this rezoning.

The Public Hearing on this rezoning petition was opened at 7:40pm. There were no speakers on this issue. The Public Hearing closed at 7:40pm.

Chairman Wagoner read the Statement of Zoning Consistency.

July 20, 2009

STATEMENT OF ZONING CONSISTENCY PURSUANT TO N.C.G.S 153A-341

RE: Proposed rezoning of approximately 11.01 acres, being all of Parcel # 486800476475, off of Hemric Mountain Road, in the Arlington area, from Rural Agricultural (RA) to Highway Business (HB) district.

As we, the Yadkin County Board of Commissioners, have found this property to be located near existing commercially-zoned properties with established commercial uses, and significantly contiguous with the Right-of-Way of (southbound) Interstate-77, a well-traveled arterial road; and have further found that:

We find the above referenced proposal for rezoning to be consistent in character with the intent of the Highway Business District as provided in Article 7, Section 4 of the Yadkin County Zoning Ordinance.

We further find the above referenced proposal for rezoning to be consistent with the guidelines for highway-oriented commercial uses in Section 5.7.5., Subsection 5, of the Yadkin County Land Use Plan.

We therefore consider the proposed rezoning to be reasonable and in the public interest.

Commissioner Wooten made a motion to approve the Statement of Zoning Consistency for 11.01 acres on Hemric Mountain Road belonging to Gilbert Hemric. Commissioner Garner second.

Vote: 5/0

Vice Chairman Austin made a motion to approve the rezoning of 11.01 acres of Gilbert Hemric from RA to HB. Commissioner Garner second.

Vote: 5/0

(5) Mr. Ong requested the setting of a Public Hearing on the rezoning request of 9.2 acres on Courtney-Huntsville Road from RA to HB.

Commissioner Wooten made a motion to set a Public Hearing for the rezoning petition of 9.2 acres on Courtney-Huntsville Road for Monday, August 17, 2009. Commissioner Garner second.

Vote: 5/0

BOARD APPOINTMENTS

(1) The Board discussed the replacement of Lowell Todd as an alternate on the Board of Adjustment. Vice Chairman Austin reported that he had spoken with several individuals but had no enthusiastic responses. Vice Chairman Austin asked Mr. Ong to describe the specific responsibilities of the Board of Adjustment and its meeting schedule. Mr. Ong reported that the Board of Adjustment meets only when needed. Meetings are scheduled in conjunction with the Planning Board which meets on the second Monday of each month. This item will be discussed once more at the August 3, 2009 meeting of the Board.

(2) Nancy Keith, Director of Cooperative Extension, appeared before the Board for reappointments of Reggie Pilcher and Marty Casstevens to the Voluntary Agricultural District Board. Ms. Keith reported that both appointments are for a 3-year term.

Commissioner Garner made a motion to approve the reappointments of Reggie Pilcher and Marty Casstevens to the Voluntary Agricultural District Board for a 3-year term. Commissioner Moxley second. Commissioner Wooten asked if there was a limit on the number of terms an individual could serve. Ms. Keith explained that the original appointment was for a 1-year term and 2 consecutive reappointments for a 3-year term are allowed following the initial year.

Vote: 5/0

BOARD REPORTS/REQUESTS

Regarding a prior request from Stewart Maples, Mayor of East Bend, the Board reviewed an outstanding loan to the Town of East Bend for assistance with a sewer project. Vice Chairman Austin had reviewed available documents and determined that a previous Board held this as an economic development

opportunity for East Bend and the County at large. Promises were made to East Bend. Vice Chairman Austin reiterated that the current Board is not bound by the action of previous Boards. However, Vice Chairman Austin feels that there was the intention to gift \$50,000 and loan \$50,000 for the sewer project. To date, East Bend received the loan but not the gift. East Bend has repaid \$5000 of the \$50,000 loan.

Vice Chairman Austin read the following letter dated July 12, 1999...

“Dear Mayor Hardy:

The Yadkin County Board of Commissioners reviewed the town’s request for funds to help with the sewer system installation. The Board is very supportive of this program but felt restricted by available funds and precedents established in funding requests from other towns.

The county would like to make the following funds available; a grant of \$50,000 and a long term loan of \$50,000. This is in addition to the \$50,000 the Board had previously agreed to provide as economic development funds involved with the transfer of the package treatment plant in the East Bend Industrial Park.

These funds will be made available to the town on a “when needed” basis. The county hopes that this allocation of funding will allow the Town of East Bend to proceed with the installation of your sewer system. Please keep us informed of your needs within the allocations.

Sincerely,
Cecil Wood, County Manager”

As this letter speaks of need, Vice Chairman Austin believes that the Town of East Bend needs additional funding at this time to extend the lines on Neal Street and other possible projects. Commissioner Wooten concurred with Vice Chairman Austin’s assessment of the documents and stated that the letter of July 12, 1999 is the key to these discussions.

Vice Chairman Austin made a motion to remove the remaining debt of \$45,000 and annul any other financial debt between the Town of East Bend and Yadkin County regarding the sewer project. Commissioner Wooten second. Commissioner Wooten believes this is an appropriate action based on the documentation of this matter. Chairman Wagoner reiterated that there would be no further obligation on the part of East Bend or Yadkin County. Commissioner Garner commented that as funds are not available to allocate, forgiving the debt is the only option. Commissioner Moxley noted that forgiving the debt would assist East Bend with economic development projects.

Vote: 5/0

BOARD ACTION

(1) Nancy Keith, Director of Cooperative Extension, appeared before the Board to review an Amendment to the Yadkin County Farm Preservation Ordinance. Ms. Keith was accompanied by Brent Hunter, Chairman of the Voluntary Agricultural District Board (VADB). Mr. Hunter explained that the amendment includes only a statement informing the public that the Voluntary Agricultural District Map would be maintained by the office of GIS and on file in the Register of Deeds Office. Mr. Hunter reported that the VADB was unanimous in the approval of the amendment.

Commissioner Garner made a motion to approve the Amendment to the Yadkin County Farm Preservation Ordinance. Attorney Graham reported that a Public Hearing is required for this amendment. **Commissioner Garner withdrew his motion.**

Commissioner Wooten asked if the GIS department agreed to maintain this map. Mr. Hunter explained that GIS is already maintaining the map. The amendment simply notifies the public how to access and view the map. Commissioner Wooten asked what steps must be taken for implementation. Mr. Hunter explained that several agencies are involved in the qualification process. Ms. Keith reiterated that the amendment to the ordinance simply notes the involvement of GIS and instructs the public that the maps are filed with the Register of Deeds. Commissioner Moxley asked how the public became aware of the maps currently. Ms. Keith reported that the public can

get information about farm preservation at the Register of Deeds Office, Planning and Development Office, or the Agricultural Extension Office. Commissioner Wooten asked if there would be additional expense for the Register of Deeds. Ms. Keith replied that costs would be minimal. Commissioner Wooten requested that the GIS Administrator and the Register of Deeds appear before the Board to discuss the impact and cost of this amendment prior to further discussion.

Commissioner Garner made a motion to set a Public Hearing for the Amendment to the Yadkin County Farm Preservation Ordinance for Monday, August 17, 2009 at 7:00pm to be accompanied by a report from GIS and the Register of Deeds. Commissioner Moxley second. It was noted that the Farm Preservation Ordinance is established according to State guidelines. Chairman Wagoner commented that it should be mandatory for real estate agents to inform their clients that the potential property may be in a voluntary agricultural district. Mr. Hunter reported that GIS overlay maps and all other relevant information is available to property owners and potential property owners if they seek the information.

Vote: 5/0

Vice Chairman Austin asked how many acres have been designated as farm preservation since the kickoff of the program. Ms. Keith reported that 2000 acres are currently designated as farm preservation divided among 20-23 parcels.

Chairman Wagoner called for a recess at 8:13pm. Meeting resumed at 8:37pm.

(2) Randy Darden of JJ&G appeared before the Board for a discussion of 5D. Haymes Brothers had requested separate payment for geotextile materials that were included in the plans and specifications of the project. In addition, Haymes Brothers requested additional monies for the placement of a silt fence at the diversion channel that was not included in the plans. Schnabel asked for a letter from Haymes Brothers explaining their position. The letter received from Haymes Brothers added no further insight into the additional change for the geotextile material. Considering the amount of rain in the early spring and the damage that could have occurred, Schnabel believes the silt fence was justified. Schnabel sent a letter dated June 18, 2009 stating that the

specifications were appropriate and that Haymes Brothers was not entitled to additional compensation for the geotextile material. Schnabel did recommend the additional payment for the silt fence. Haymes agreed to accept \$24,795 for the silt fence but intends to file a claim for the remainder. Mr. Darden suggested that County Manager Kiser send a letter to Schnabel declining their recommendation.

Vice Chairman Austin made a motion authorizing County Manager Stan Kiser to address a letter to Schnabel Engineering declining the recommendation to pay the additional requested amount for silt fence.

Commissioner Garner second. Vice Chairman Austin asked if the issue with silt fence was an oversight on the part of Schnabel. Mr. Darden responded that the specifications for silt fence were adequate based on historical rainfall data. The rains of this past spring were an unusual event and could not have been projected. The silt fence installed by Haymes was an 'accidental benefit' to Yadkin County. The geotextile material, on the other hand, should have been included in the original bid and not later submitted as a change.

Commissioner Wooten questioned the removal of sediment. Mr. Walker reported that sedimentation was relocated as required by the Division of Land and Air Quality.

Vote: 5/0

(3) Mr. Darden presented a proposal for soil remediation at the EMS Facility on Cherry Street. Mr. Darden reported that the removal of the underground storage tank was \$8200. This amount is not reimbursable. There is a \$20,000 deductible that must be met in order to qualify for reimbursement on the soil remediation. The project is estimated at less than the deductible amount. Mr. Darden has received 1 quote from ECS Carolinas and intends to solicit at least 2 more quotes. Vice Chairman Austin questioned the sludge disposal. Mr. Darden did not have that information. Mr. Darden did report, however, that the soil removal will be cautionary with the least amount removed as necessary. Commissioner Garner asked about the areas where leakage was found. Mr. Darden explained that leakage occurred only at the intake. There were no obvious holes in the tank itself. Mr. Darden explained that this project is on a tight timeframe due to the scrutiny from DENR. Mr. Darden suggested that he be given the authority to choose the bidder on this project in order to

move quickly. Vice Chairman Austin stated that he did not want to discourage competition and would like to have additional quotes.

Commissioner Garner made a motion to authorize County Manager Kiser to accept the lowest appropriate bid on the soil remediation for the EMS facility on Cherry Street. Vice Chairman Austin second.

Vote: 5/0

MANAGER REPORTS/COMMENTS

(1) County Manager Kiser reported that the Yadkin Center of Surry Community College has begun the process of moving a modular unit to the Hoots Road location. The Yadkin Center is requesting that Yadkin County waive all permitting and inspection fees. County Manager Kiser reported that fees have been waived in the past for Yadkin County Schools. After brief discussion, it was the consensus of the Board not to waive the necessary fees due to the precedent that would be set by this action.

(2) Yadkin County Schools Finance Officer, Gayle Hill, reported to County Manager Kiser that stimulus loans were available. County Manager Kiser informed Ms. Hill that Yadkin County could not take on any more debt at this time.

(3) County Manager Kiser referred the Board to the Community Assistance portion of the budget. These dollars represent the ROAP funds associated with Work First clients of DSS.

(4) County Manager Kiser had additional copies of documents regarding the loan to East Bend for any interested Board members.

CALENDAR NOTES

Clerk Brown reminded the Board of the joint meeting with the Board of Education on August 31, 2009 at 6:30pm at Prime Sirloin. Yadkin County Board of Commissioners is the host of this meeting.

COMMISSIONER COMMENTS

Vice Chairman Austin had no additional comments at this time.

Commissioner Garner had these additional comments:

Commissioner Garner made a reference to comments by citizens regarding the collection of back taxes. According to reports received from the Tax Administrator's office in today's agenda packet, Commissioner Garner reported that the collection rate has been between 99.3% and 99.8% since 1999. The primary source of uncollected taxes is DMV and the municipalities. Otherwise, the collection rates are excellent.

Vice Chairman Austin added a comment at this time. Vice Chairman Austin thanked the members of the Yadkin Valley Cruisers for their contribution of lighting for the flag and monument at the courthouse. Commissioner Garner pointed out that the Yadkin Valley Cruisers have made so many contributions to the community. Commissioner Garner asked Clerk Brown to send a letter of appreciation to the Yadkin Valley Cruisers from the Board of Commissioners. Vice Chairman Austin also thanked County Manager Kiser and Public Buildings Director, Lou Ganzzermiller, for arranging the trimming of trees at the courthouse to expand the view of the flag.

Commissioner Moxley had these additional comments:

(1) The 5D Recreation Committee toured the 5D site on July 14. Commissioner Moxley stated that the scope and magnitude of this project could not be fully understood until you were standing in it. The 5D Recreation Committee is interested in feedback from the citizens concerning what type of activities should be allowed in the 5D area. IT Director, Josh Arnder, has reported that a link on the County website could be created in just a few short minutes. There were questions regarding how the public would be informed of this opportunity. Mr. Darden and The Yadkin Ripple associates have already briefly discussed this matter.

(2) Commissioner Moxley presented the Board and other parties with the new Cascade Highlands Brochure. The Cascade Highlands has an initiative that would target travelers along Interstate 77 in the Yadkin Valley region.

Commissioner Wooten had no additional comments at this time, but did ask if a Closed Session was planned. A Closed Session was added during the Adjustments/Adoption of the Agenda section.

Chairman Wagoner had no additional comments at this time.

Attorney Graham had no additional items for discussion.

Commissioner Garner made a motion to enter a Closed Session for consultation with attorney per NCGS 143-318.11 (a) (3). Commissioner Moxley second.

Vote: 5/0

Commissioner Moxley made a motion to end the Closed Session. Commissioner Garner second.

Vote: 5/0

Commissioner Wooten made a motion to adjourn. Vice Chairman Austin second.

Vote: 5/0

Meeting adjourned at 9:47pm.

Prepared by Clerk to the Board

Date Approved by the
Yadkin County Board of Commissioners